



of ascertaining the amount of fringe benefits contributions due the Funds and Union and verifying the accuracy of the Employer reports..

6. Jurisdiction of the subject matter of this action is based on the Employee Retirement Income Security Act of 1974, as amended ("ERISA").

7. This action was commenced on July 16, 2007 by the filing of a summons and complaint. The summons and complaint was served upon the Employer on July 25, 2007 via Secretary of State.

8. The Proof of Service was filed with the Clerk of this Honorable Court on August 2, 2007. Copies of the summons, complaint, and proof of service thereof are annexed hereto collectively as Exhibit "A".

9. The defendant has not filed or served an Answer, a Motion or otherwise responded to plaintiffs' summons and complaint.

10. The defendant refused and failed to allow the auditors to conduct a payroll audit for the period July 1, 2004 through to and including March 31, 2007 and is liable for any delinquency contributions together with interest on the unpaid principal, liquidated damages, attorneys' fees, auditors' fees and costs and disbursements incurred in the action pursuant to the terms of the C.B.A. and in accordance with section 502 of Erisa 29 U.S.C. Section 1132.

11. As a result of defendant's default, plaintiffs are entitled to damages as follows:

- a) An order for an Audit to be conducted at the defendant's office of the defendant's payroll books and records (including but not limited to payroll taxes, payroll earnings, records, stamp receipts, cash disbursement, tax forms, journals) for the period July 1, 2004 through to and including March 31, 2007.
- b) Judgment for any unpaid amounts found due and owing pursuant to the audit including interest, liquidated damages, attorneys' fees, auditors' fees, court costs and disbursements.
- c) The sum of \$2,930.00 for bringing this action to enforce the audit, which includes \$2,500.00 in attorneys' fees, and \$430.00 in court costs and disbursements.
- d) For such other and further relief as the Court deems appropriate.

**WHEREFORE**, plaintiffs' request the entry of Default and the entry of the annexed Judgment against defendant in the amount of \$2,930.00 and an order for an audit of defendants' payroll books and records for the period July 1, 2004 through to and including March 31, 2007 and entry of damages for

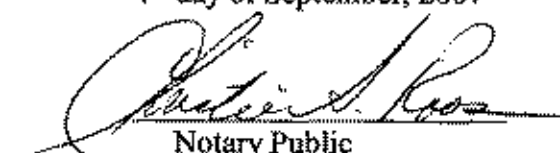
any amounts found due and owing pursuant the audit including interest, liquidated damages and auditors' fees.

Dated: Elmsford, New York  
September 4, 2007



Dana L. Henke (DLH 3025)  
BARNES, IACCARINO, VIRGINIA  
AMBINDER & SHEPHERD  
258 Saw Mill River Road  
Elmsford, New York 10523  
(914) 592-1515

Sworn to before me this  
4<sup>th</sup> day of September, 2007



Notary Public

CHRISTIE S. ROOS  
Notary Public, State of New York  
No. 01RO8014276  
Qualified In Westchester County  
Commission Expires October 5, 2010